IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.3033 OF 2007

Rohidas Kisan Shinde ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Uday Warunjikar i/b Mr Vivek Salunkhe and V.V. Jathar, Advocates for the applicant.

Ms S. D. Shinde, APP for the respondent.

CORAM: V.C. DAGA,J.
DATED: 19.9.2007.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused the application and the material available on record.

3. The applicant-original accused arrested in C. R. No. 106 of 2007, registered with Narayangaon Police Station, for the offence under Section 498-A, 304(B), 306, 323, 504 of the I.P.C., is seeking bail under Section 438 of the Cr.P.C, after rejecting his application for anticipatory bail vide the order dated 5.9.2007 by the learned Sessions Judge, Pune.

4. Mr Uday Warunjikar, the learned counsel for the applicant submits that the applicant has been falsely implicated. He further submits that the delay in filing the F.I.R. is sufficient to show that it

was filed as an after thought. He further submits that for the welfare of the child the applicant has already transferred some of his properties. He has also transferred money by way of demand drafts. The xerox copies of which are placed on record. He pointed out that he has also insured his son. He has taken L.I.C. policy for him. According to him, all this was done for the welfare of the son of the applicant and the deceased wife. All these facts are brought on record to show that he did not commit any offence and that he was a caring husband and a father.

5. The learned A.P.P. for the State opposed this application and urged that the custodial interrogation would be necessary, in view of the fact that the act of committing suicide could not be a spontaneous decision of the victim. According to the prosecution, victim must have suffered constant illtreatment that must have driven her to end her life. According to the learned A.P.P. that may be a cause of suicide.

6. Sum and substance of the submission of the learned A.P.P. is that the custodial interrogation would be necessary to find out the real reason behind death of the victim in question. She further relies upon the observations of the Additional Sessions Judge, reading as under:-

> "The arrangement made by the applicant after death of deceased wife towards welfare of her kid, smelling something wrong in the death of the deceased and

in the circumstances thorough investigation in the matter is required."

(Emphasis supplied)

7. The learned A.P.P. based on the aforesaid observations of the learned Ad-hoc Additional Sessions Judge, Pune, has urged that the act of transferring property and liquid assets in the name of the son, at the instance of father-in-law, is one of the indication of the guilty mind of the applicant-accused. According to her, there must have been certain negotiations between the present applicant and his father-in-law to prevent him from lodging police complaint against him. In the bargain, applicant must have transferred some properties in the name of his son. If that is so, all the more, the act of alleged suicide needs to be investigated.

8. This Court cannot neglect the fact that the victim would not end her life; especially, when she has five years son. In this circumstance, driving the deceased to that extent or there could be some other reason other than the reason visible to the nakeyed eye. At any rate, it needs investigation. Investigation is incomplete.

9. In the result, the application is rejected.

(V.C.DAGA,J)